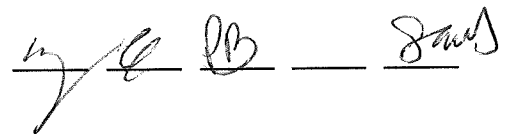


**BOARD OF SELECTMEN
MEETING MINUTES
6/14/11**



The Board of Selectmen met in the Town Hall, Joseph F. Bilotta Meeting Room as scheduled with Paula Bertram, Steven M. deBettencourt, Ernie Sund, Tom Alonzo, Dave Matthews and Town Manager Kerry Speidel present. Meeting opened at 7:01 P.M. with the Pledge of Allegiance

PUBLIC COMMENT

Tom expressed congratulations to the Class of 2011 and extended appreciation to Fitchburg State University for use of their facilities. Also, expressed congratulations to Paul Porter for being named Marine of the Year in the State, recognized all his service to the town. Ernie, noted that today is Flag Day, June 14th noted that old flags can be disposed of and to contact the Senior Center. Dave Public Safety held a Memorial Service this past weekend and expressed appreciation to all those who have served today and before. Board would like to be included on the invitation list in the future.

ANNOUNCEMENTS

APPOINTMENTS

1. **7:15 PM Class II Licensing Hearing for Shawn Sawyer, d/b/a Dr. Auto Sales & Service** – Dave opened the Hearing accordingly: The Licensing Authority will hold a public hearing on June 14, 2011 at 7:15 PM in the Joseph F. Bilotta Meeting Room, 2nd Floor Town Hall on the Class II License application submitted by Shawn M Sawyer, d/b/a Dr. Auto Sales & Service. This license is to be exercised at the premise located at 541 Chase Road, Lunenburg MA. Shawn was present and informed the board of his plans, has been in the business all of his life, his father has been in the business for about 30 years and now are attempting to get into the sales aspect. It will be a mixture of both service and sales. They have gone to the Zoning Board of Appeals and understand their restrictions, they have been operating the service aspect since March, not the sales part. Paula motion to approve license, Steve seconded voted unanimously.

2. **7:30 PM Public Hearing, Alcohol Beverages License, 84 Lakefront Avenue, RNDC, Inc., d/b/a RG Scooters Bar & Grille** - Dave read the attached notice that was sent out to RG Scooters. We had posted a public hearing for June 8, 2011 at 7:30 p.m. pursuant to MGL Chapter 138, Section 23 to discuss the alcoholic beverage license granted to RNDC Inc., d/b/a RG Scooters Bar & Grille. The hearing concerns incidents set forth in the police report dated March 22, 2011, Incident #11-183-OF. According to the report, both David Cioffi and Rhonda Newman, owners of RO Scooters, impeded a police investigation by refusing to provide information relative to a theft that occurred on March 22, 2011. While the Lunenburg Police Department chose not to file charges against either owner, they've has referred the matter to the board in their capacity of Licensing Commissioners.

The Lunenburg Licensing Commission adopted License Regulations on April 6, 2010. Among other things, these regulations address: Other Causes for Revocation, Suspension and Modification [1.13]; and Liquor License Sentencing Guidelines [1.14].

By failing to provide requested information to the LPD regarding the March 22, 2011 incident, the owners of RG Scooters could have been charged under MGL Chapter 138, Section 63A with "hindering or delaying investigator, inspector or agent of commission," and been subject to fines and/or imprisonment. By failing to provide the requested information, the owners are in violation of Section 1.13 (4) of the Lunenburg Licensing Commission License Regulations. Violation is subject to the imposition of penalties set forth in Section 1.14. This is a first offense by RG Scooters, which carries a penalty of "warning to seven day suspension." Any penalty imposed by a local Licensing Commission is appealable to the ABCC within 5 days of imposition.

Subsequently the hearing date was changed to tonight. Those presenting testimony were sworn in by Town Clerk Kathryn Herrick.

Chief Bourgeois noted in summary that he will have Sgt. Gammel present testimony and noted that under MGL Chapter 138, section 3A allows for the town to assess penalties for hindrances and delays caused by individuals during the course of any authorized investigation by the licensing authority.

Sgt Gammel reviewed the brief summary of the police report, attached. His main reason for being here is that he is not able to close out this case without being provided the tapes, and that Ms. Newman was adamant that no crime had been committed as the stolen property was returned. According to Gammel the incident occurred on March 22, Scooter's owner Rhonda Newman hindered the Police Department in their investigation of the theft of camera bag containing a camera and over \$50 worth of items from Emily Ashman that she reported had been stolen from RJ Scooter's Pub, 84 Lakefront.

Steve questioned the relevancy of the cited MGL Chapter as it relates to fines and/or imprisonment being assessed.

Per the Chief they (PD) believe that this incident was a true hindrance to the investigation as Ms. Newman was uncooperative and became belligerent when requested to turn over the video tape of the night of the incident.

Attorney Pusateri was present to represent RNDC Incorporated questioned Sgt. Gammel; and reviewed the police report and noted that he (Gammel) indicated that she (Rhonda Newman) would only provide the tapes if the victim was pressing charges. To which Ofc.

Gammel concurred with Att. Pusateri reiteration of the incident. Attorney Pusateri questioned that at no time did you advise her of the MGL that required providing the information and informed her that she had a duty to provide information. No time did you say you were required by law to supply that information? She stated that she would give you the tapes if charges were being pressed. Attorney Pusateri reviewed the police report and incident and noted that he had probable cause to issue a complaint against his client. In his report he indicated that he spoke with an Emily Ashley and indicated that she was sober and there was no issue of her being over served. The information was provided to the client that she was very uncooperative.

Attorney Pusateri noted that at no time has the Town of Lunenburg sought a criminal complaint against the suspect.

Dave read the Rules and Regulations 1.13 Other causes for Revocation, Suspension and Modification, Section 4, that were adopted by the town on April 6, 2010. "Any license issued pursuant to General Laws Chapter 138 may be modified, suspended or revoked for any of the following causes: 4. Failure or refusal of the licensee to furnish or disclose any information required by any provision of the General Laws or by any rule or regulation of the Alcoholic Beverages Control Commission or any rule or regulation of the Licensing Authority.";

Ernie questioned how long this establishment has been opened and according to the attorney his clients have owned this establishment for four years. To which Ernie questioned if they've ever reviewed their license that was issued and suggested that they actually read the license. Ernie noted the second paragraph on the license that specifically states "This license is granted and accepted upon the express condition that the licensee shall in all respects, conform to all the provision of the Liquor Control Act, Chapter 138 of the General Laws, as amended, and any rules or regulations made there under by the licensing authorities."

Tom questioned whether the client denies refusing or allowing access to the tapes with conditions. According to the attorney she would provide the tape with conditions. Tom questioned specifically what you meant "only if certain conditions were met"; would the video be provided to the police?

Attorney noted that what's happened here was a lack of communication; to what degree his client was facilitated by the PD to obtain data and to a certain degree it's not unreasonable to have a knee jerk reaction that was enacted but not based upon some fantasy.

Dave Sgt. Gammel requested specific information to help him in his case and that was refused.

Attorney Pusateri noted that his client knew who the person (perpetrator) was and had taken immediate steps to rectify the problem almost immediately.

Tom questioned if the Attorneys client denies that a crime occurred at their establishment and per the attorney, NO, Rhonda understands this now.

Chief Bourgeois stated that the police are licensed agents of the town and any license holder is expected to comply with law enforcement and noted that this was clearly a hindrance of a criminal investigation. You want the evidence early and secured and not out there for some period. It was important to get that information from the police officers perspective in order to investigate the crime.

Attorney noted that she would have participated in their requests had she been informed that this was a crime.

Attorney Pusateri commented respectfully, hindsight being 20/20 there is a regulation that provides the production of the information. Herein lies what the problem is, this is an anomaly that happened, client refused to provide the information; if a police officer were to come again to the facility, they would comply.

Dave looked at it differently, a crime did occur and client essentially disappeared and refused to provide the officers with evidence.

Per the Attorney, the evidence existed for two weeks and as far as admissible evidence, there is all the evidence that we need if we were to prosecute this crime. Don't believe that they tried to cover up; they allowed the person to review the video and identify the individual. At no time did they try to deny that this crime ever happened, there is not that level of cover up.

Dave believes that they (Scooter's) did everything they could to make this go away. Agents have full ability to prosecute, noted that this was another issue.

Paula is pleased to hear you say that the license holder will proceed with compliance with the law enforcement agent. The reality is that as a license holder it clearly states that they are to comply fully with MGL Chapter 138 and that full cooperation is expected. Her concern is that any establishment is expected to comply fully with the Police Department; it is not up to the license holder to determine if that information is to be provided.

Ernie questioned the Chief on whether he's ever been involved in investigations of this nature and he has not.

Sgt. Gammel noted that they have had investigations at other establishments and officers within the police department have investigated incidents at establishments and owners complied with their requests.

Attorney, in addition to that citation, had his client been presented with her specific obligation we wouldn't be here, officer seems to come short on "and you need to provide this information to us", a breakdown of communications did occur.

Per Dave as a license holder in town it is her responsibility to know what her obligations are, to which Attorney Pusateri agreed.

Dan would suggest to the board that this evidence is not negotiable and is a clear denial to provide this information to the licensing authority. Choose not to charge the owner and added that the victims of the crime decided or persuaded a number of different ways not to prosecute.

Attorney reiterated his clients willingness to assist in investigation and would only provide them if the victim pressed charges.

Dave closed hearing and reviewed the regulations....

Open to discussion, Paula the first part, believe that it's clear that a violation has occurred to which the whole board concurred.

Dave the way this played out, he understands but doesn't like the fact that the victim was put in a place where she had to make a decision and requested input from Chief Dan as to his recommendation.

Per Chief Dan their department strives to have a good relationship with the establishments within our community and incidents such as this tarnish those relationships. He would recommend a minimum of 3 to 5 day license suspension and this investigation was all hinged on whether the owner complied, this was an irresponsible move on the business owner.

Attorney heard that the victim got most of her property back and decided not to pursue and would ask that you not consider suspension.

Dave there is a rule and regulation that your client did not follow.

Paula would have been more appropriate to have the victim in an environment with the police officer.

Attorney the easier course for the victim was through the establishment.

Sgt. Gammel spoke with the business owner that night and asked that he be allowed to review the tapes from the owner or from the bartender. The reason for the follow up the next day was because he did not receive the video tapes.

Attorney reviewed the notice of the hearing and no reference of MGL Chapter 138, Section 63A was included.

Tom noted that the notice cites 1.13.4 specifically what the violation is in accordance with the Towns' regulations.

Kerry commented that Town Counsel had prepared the notice that was sent to Rhonda Newman and was fully aware of the incident as they reviewed the police report.

Tom the request was made for this video tape and the owner did not provide as required by law, and cannot have investigations that are contingent upon compliance with the establishment owners. He would recommend a fine of \$100 in accordance with our guidelines and suspension of 3- 5 days, Ernie would recommend the full 5 day suspension, Steve and Paula agree with the recommendation of the Chief and would hope that all establishments are encouraged to operate and cooperate fully with our police department. Dave also agrees and would recommend setting a five day period and allow two weeks out in order for them to appeal to the ABCC.

Dave move to find that a violation of the Towns License Commission Regulations, section 1.13 (4) and MGL Chapter 138, Section 63A, occurred and further that the RNDC (RG Scooters) is hereby issued a suspension for June 29, 30, July 1, 2 and 3rd, Tom seconded.

Attorney Pusateri noted that the suspension is going to fall over a holiday weekend and they are still going to be able to function in a very difficult time, he would request that a suspension be from a Sunday to Thursday.

Paula realizes that this is a significant holiday and would be willing to move the suspension out a week, Tom concurred that giving this out is extensive and moving out a week is not unwarranted.

Dave amend the motion to five days to be served to July 6th, 7th

Tom seconded, Paula yes, Steve yes, Tom yes and Dave yes, Ernie no as he believes the first dates were accurate.

Hearing closed at 9:07 PM

CURRENT BUSINESS

1. Approve: Recycling/Solid Waste Contract with Casella Waste Services, Auburn MA – Tessa David, NCRSWC (Mass Toss Director) and Gerry Galena, General Manager of Casella Waste Services was present. The town went through the bidding process with the assistance of Tessa David and town meeting has also approved a ten year term. According to Tessa, we will continue with the single stream recycling, the routes and schedule will remain the same. Flyers are being written and will be available for all households that reiterates what can go into the recycling. She also reminded residents about the PAYT (Pay As You Throw) program, the pricing is also on the flyer for the two different size bags. Arrangements can be made directly with Casella for bulky goods with payments directly to the vendor. We've received glowing reports from the communities that currently use Casella and expect the transition to go seamlessly. There is a new number to call, trash and recycling must be out by 7:00 am and bulky waste will be picked up on the same day as the trash. Kerry reiterated that the recycling is available to all households and not just those that participate in the PAYT program. Steve motion to approve, Tom seconded, voted unanimously.

2. Approve: Joint Representation Agreement for review of Regional Dispatch, IMA – Kerry reviewed the meeting where Chief Glenn came before the board on the Regional Dispatch and a draft of the regional agreement. The Town of Lancaster also is represented by Kopelman & Paige and as such they (K&P) are requesting that Lunenburg consent to their representation of the Town of Lancaster and the Town of Lunenburg regarding the proposed Agreement and to sign a "Determination" form accordingly. By reviewing the document we are not committing, but moving on to the next stage. Provided a copy of the presentation that was made yesterday among the communities that are participating. Hoping to have communities enter into the IMA sometime over the summer. Would like to have Chief Glenn come back next week to go over the presentation, right now they are looking to assess a flat assessment to all the communities, based upon participation and not the workload. Kerry would like the board to consider and hopefully approve the request for joint representation for Lunenburg and Lancaster, Steve so moved, Ernie seconded. Paula's concern is that we haven't had an in depth conversation as she has a number of questions in her mind and concerned to have counsel move forward to review an agreement when we haven't had the opportunity to discuss among the board. Kerry believes that it is going to take K&P about three weeks to review and would like to have this process work in parallel. Dave questioned the financial impacts of the document and Kerry would like to start this process as soon as the boards next meeting.

Ernie reflected back on the meeting last year that he attended in Rutland and it was decided with that group not to participate and he wanted to see a smaller group to bring it into focus and into this area. As such he would like to endorse this and move through it as best we can and frugally as we can and at the same time look at the financial aspect as he believes that this will benefit us as well.

Lancaster may move ahead and have it reviewed for their town and we'll have to have it reviewed after. They've been at this longer and the goal of this group is to get the IMA signed this summer.

Dave is willing to move ahead, and Tom concurs as there is a difference in reviewing the document and signing the document. Paula is just concerned as to implementation and financial impacts. Hopes that when the Chief's come in that this information is available, also questions on response times etc. the board would like to have answered. Voted unanimously to approve.

3. Approve: Short Term Borrowing for FY11 & 12 Capital Projects – Kerry informed the board that we are at a point that we need to authorize short term borrowing for capital expenditures for FY11 & FY12 and received bids in yesterday on a bond anticipation note, one year note. Base bid was received from Eastern Bank. Tom move to authorize the sale of Bond Anticipation Notes in the amount of \$515,000, dated June 29, 2011 to mature on June 29, 2012 to Eastern Bank at a rate of 1.05% and to authorize execution of all documents necessary to complete the sale, Paula seconded, voted unanimously to approve.

4. Annual Appointments / Board Liaison Assignments – Paula Planning Board, Steve Sewer, Ernie PACC & Capital Planning, on the Green Community, Tom Finance Committee and Mass Broadband and Dave School Committee.

a. MART Advisory Board – Current appointment to the MART Advisory Board is Rob Bowen and Kerry will confirm with him that he is still interested.

b. Primary & Alternate for Sewer IMA Negotiations at request of Sewer Commission – Paula questioned the status of a revised document and if we could check on status. She would be interested in serving in some capacity, Dave would like to see her as the primary and Tom would also be interested in serving.

5. Minutes – Board of Selectmen Regular and Executive Session for 6/7/11 reviewed and signed.

Warrants - #68 11, 6/14/11 - \$359,705.85 reviewed and signed.

Action File Issues – Tom questioned a bid for one of the parcels that we had put out to bid on Pratt Street and what was going on with that offer. Kerry did respond and advised him what the minimum bid was and had been established. We can go through a negotiated sale on that as we did go through the bid process and they are valued at less than \$25,000, so we may be able to sell off additional parcels.

Paula would like to receive a status update on the Lake Shirley Dam and according to Kerry we are now working with Stantec and they are working on the inspection which we can expect a report on within the next few weeks.

Steve also would like an update on the status of TriTown landing, the number of students and the status of the pot holes. Paula will check with the Planning Board on the update for TriTown. Steve also questioned the parking allowance per unit on that development and how this is working out. Kerry will place under updates for her next meeting.

6. Committee Updates -

Paula has information on the Planning Board and she was advised that they will be conducting workshops to address some issues before them. Kerry had discussion with the Town Clerk and will get something in writing as neither she or the Town Clerk would advise this method. Paula noted that this raises concerns as to what could potentially be discussed and would like clarification. Also noted that on the third building at TriTown project is dependent upon when funding will commence from the State; uncertain at this time on the status of buildings 4, 5 & 6.

Steve noted the recent bid on the DPW Renovation and that a number of bids came back and are still over the amount that has been appropriated. They cut the project down to as tight as they can get it and the project will come back to this board so that we can go after a Special Town Meeting for an additional appropriation as there is nothing else left to cut.

Tom questioned how much the first bid was over and according to Steve about \$600,000 and this one was about \$150K over.

Dave did attend the past meeting of the DPW Building Committee and they are going to fine tune to see exactly where we need to be in order to go for a Special Town Meeting. Per Kerry the Committee would like to come before the board next week and discuss the possibility of a Special Town Meeting and what specifically they would be looking for as far as a dollar amount, looking at July 18th which would allow us to request an extension to hold the bid to 45 days. There is no way to go forward with this project without not building the project that was presented at Town Meeting or opening us up to liability without having enough funding. We would be looking at opening the warrant next week and close the next day so that we can get the warrant printed and notices sent out in time. Noted that it would be difficult to request the bidder to hold their bid for any longer than 45 days.

7. Department Updates -

8. Town Manager Updates Kerry attended the public hearing at DPU on the Municipal Aggregation and we are one of three communities attempting to aggregate our municipal load. The towns of Ashland and Lanesborough are also before the DPU. Noted that DPU wants to handle all three cases the same and granted a discovery period through July 11th and scheduled a status hearing for July 12th. We're looking to go out to bid in the fall and know that Unifil goes out to bid in December, there have been no issues just moving slowly as we are in line with two other communities.

OLD BUSINESS

COMMITTEE APPOINTMENTS/REAPPOINTMENTS/RESIGNATIONS

Tom noted that the Finance Committee has provided notice that there are three openings on the Finance Committee, noted that Mike Mackin has been elected to the School Committee and as such is not able to serve on the Finance Committee. Martha MacDonald is not interested in serving another term and Brian Laffond is interested in serving another term. Requested anyone interested in serving to please complete a Talent Bank form and forward to this office. The appointment to the Finance Committee is done by a three person committee and per the Charter they are the appointing authority for this committee.

EXECUTIVE SESSION

1. M.G.L. Chapter 39, §23B (3) to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the government's bargaining or litigation position.

UPCOMING MEETING SCHEDULE

June 21, 2011

July 12, 2011

Being no further business board voted unanimously to adjourn Regular Session at 9:08 P.M. and opened Executive Session by roll call vote; Steve aye, Tom aye, Paula aye, Ernie aye and Dave aye, in accordance with M.G.L. Chapter 39, §23B (3) for the purpose of discussing strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the government's bargaining or litigation position. Chairman announced that the Board would not be returning to Regular Session

Respectfully submitted,

Laura Williams, Chief Administrative Assistant
Board of Selectmen

TOWN OF LUNENBURG

BOARD OF SELECTMEN

17 Main Street, PO Box 135
Lunenburg, MA 01462-0135
Steven M. deBettencourt, Vice-Chair
Carl "Ernie" Sund, Clerk
Thomas A. Alonzo, Member
David J. Matthews, Member



978-582-4144, FAX 978-582-4148
Office Hours
Mon, Wed, Thu. 8:00AM - 4:00PM
Tues. 8:00AM - 6:30PM
Fri. 8:00 AM - 12:30 PM

Town Manager
Chief Administrative Assistant

May 12, 2011

RNDC, Inc, d/b/a RG Scooters Bar & Grille
Rhonda Newman
84 Lakefront Avenue
Lunenburg, MA 01462

*moved to
6/14/11 @
7:30 PM
due to
scheduling
conflict*

VIA CERTIFIED MAIL

Re: Alcoholic Beverages License, 84 Lakefront Avenue- Notice of Hearing

Dear Ms. Newman:

On May 24, 2011 at 8:00 p.m., the Board of Selectmen, acting in its capacity of the Licensing Commission, will hold a hearing pursuant to M.G.L. Chapter 138, Section 23 to discuss your alcoholic beverages license #063600004, at 84 Lakefront Avenue, Lunenburg. The hearing will be held in the Joseph F. Bilotta Meeting Room, Lunenburg Town Hall, 17 Main Street Lunenburg.. The hearing will concern incidents set forth in the police report dated March 22, 2011, Incident #11-183-OF, a copy of which you will find enclosed.

You may attend this hearing and be represented by counsel at your own expense if you wish. These allegations, if proven, may constitute violations of M.G.L. Chapter 138, Section 24, in that it is alleged that you failed to cooperate with and hindered the Lunenburg Police Department in their investigation of alleged criminal activity occurring at your establishment on March 20, 2011.

These allegations, if proven, would constitute grounds for disciplinary action, including warning, suspension or revocation of your license. If you have any questions, please contact this office.

Sincerely,

Kerry A. Speidel
Town Manager

/kas